

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MOHAMMAD SAAILI SHIBIN,)
a/k/a "Khalif Ahmed Shibin,")
a/k/a "Mohammad Ali,")
a/k/a "Ali Jama,")
)
Defendant.)

CRIMINAL CASE NO.
2:11cr33

TRANSCRIPT OF PROCEEDINGS
(**Testimony of Stefan Nitsche**)

Norfolk, Virginia
April 20, 2012

BEFORE: THE HONORABLE ROBERT G. DOUMAR,
United States District Judge, and a jury

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE
By: Joseph E. DePadilla, Esquire
Benjamin L. Hatch, Esquire
Brian J. Samuels, Esquire
Paul Casey, Esquire
Assistant United States Attorneys
Counsel for the United States

ZOBY & BROCCOLETTI, P.C.
By: James O. Broccolletti, Esquire
Counsel for the Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

ON BEHALF OF THE GOVERNMENT:	Direct	Cross	Red.	Rec.
S. Nitsche	3	18	--	--

E X H I B I T S

No.	Page
(None)	

—S. Nitsche - Direct—

1 *****

2

3 MR. CASEY: Your Honor, the government would call
4 Stefan Nitsche to the stand.

5 STEFAN NITSCHKE, called as a witness, having been
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. CASEY:

9 Q. Sir, could you please state your name for the record.

10 A. My name is Stefan Nitsche.

11 Q. And where are you from?

12 A. I'm from Germany.

13 Q. What do you do for a profession?

14 A. I'm working as a crew personnel manager for a company
15 that recruits crews for ship owners.

16 Q. How long have you been in the crew management business?

17 A. Since around 1999 until today.

18 Q. What is your educational background?

19 A. I'm a certified shipping merchant. That's the education
20 we have in Germany for people working in shipping.

21 Q. What is the name of the company that you work for now?

22 A. The name of the company is Model Navigation Netherlands.

23 Q. Where is that located?

24 A. In Rotterdam, the Netherlands.

25 Q. And what is your specific position?

—S. Nitsche - Direct—

1 A. My position is crew personnel manager. I'm responsible
2 for the crew management for around 100 merchant vessels.

3 Q. When you say "crew management" could you give us some
4 examples of the types of duties you have?

5 A. Yeah. I basically oversee the crew management, which
6 means ship owners have outsourced the complete process of
7 recruiting, employing, payrolling, insurance to a provider
8 like us.

9 Q. Did you work for a different company in 2010?

10 A. Yes. In 2010 I worked for HTC, which did the crewing for
11 the Marida Marguerite.

12 Q. And what was your position back in 2010?

13 A. I was an owner's representative for that time.

14 Q. What does that mean?

15 A. That meant that I was initially hired to move to India
16 and set up a new company or recruitment company in India for
17 the company, and I was basically representing the owners of
18 this company in India.

19 Q. So it would be to recruit qualified people for crew duty?

20 A. Yes, absolutely. Yes, crew members for sea-going ships.

21 Q. After the Marida Marguerite was hijacked in May of 2010
22 how did your duties change?

23 A. When I started the vessel was just hijacked and I was
24 supposed to go to India. And when this hijack took place I
25 was then appointed as liaison to the families, assist and

—S. Nitsche - Direct—

1 support the families in India.

2 Q. And what would be your responsibilities as a liaison to
3 the families?

4 A. I would be in the main office in India speaking daily to
5 the families, keep them up to date, explain to them the
6 ongoings of this case, what we're doing as a company, try to
7 see if we as the company can give them any support, money
8 support, any other support we could render that was for the
9 families in India as well as for the families in Bangladesh.

10 Q. How often did you speak with them?

11 A. On a daily basis. There were visits in the office of
12 families on a daily basis. We had regular meetings where a
13 lot of representatives from the company attended these
14 meetings, but I was there every day and spoke to family
15 members every day.

16 Q. Did there come a time when your job changed?

17 A. Yes. In the beginning of August the negotiator who was
18 negotiating the case initially was leaving the company, and I
19 was appointed or -- yeah, appointed as his reliever and was
20 asked to come back to Germany to take over as a negotiator.

21 Q. Now, in your responsibilities as liaison to the families
22 from May 8 to August, when you took over as negotiator had
23 you been kept up to speed and kept up to date on the -- what
24 was happening with the Marida Marguerite?

25 A. Yes, absolutely. I was in daily contact as well with our

—S. Nitsche - Direct—

1 head office, and they were keeping me up to date about where
2 we are, how it looks like and what was going to happen, and I
3 kept them up to date about what is happening with the
4 families.

5 Q. Once you found out that you would be taking over as the
6 company's negotiator what did you do to familiarize yourself
7 with the negotiations?

8 A. First of all, I read all the transcripts, I listened to
9 the phone calls that had been done so far, read all the
10 available communication on that case, and was briefed by --
11 extensively briefed by the experts that were advising in this
12 case.

13 Q. Did you overlap with the first negotiator, Rajesh Chava,
14 for a period of time?

15 A. Yes, we overlapped quite some time. I'd estimate
16 something like around for two weeks. And as well at a later
17 stage he was always available and passed by the office quite
18 some time, so he was available 24/7 in case we needed him to
19 answer further questions or to give his ideas.

20 Q. Who was advising you during your time as the company's
21 negotiator?

22 A. There was a specialist company appointed by the insurers
23 who were advising us who sent out advisors to the company,
24 sitting next to us and advising us on the case.

25 Q. How often did you consult with these folks?

—S. Nitsche - Direct—

1 A. On a daily basis. The advisor was located in the hotel
2 next to our office and was in our office every day between
3 ten to fifteen hours, depending on what was going on that
4 day, and after that always was within ten minutes walking
5 distance around the office so in case anything changes we
6 could further discuss and take further steps.

7 Q. Let's talk about your negotiation strategy.

8 How did the company's negotiation strategy change in
9 August, when you took over as the negotiator?

10 A. When I came we decided that we will take a harder way of
11 negotiating, a tougher way. So I acted basically as a tough
12 negotiator.

13 Q. Were you assuming a role?

14 A. Yeah, I was assuming a role, basically. I was assuming
15 the role as being the tough -- the tough Mike.

16 Q. And when you say "tough Mike," is Mike a name that you
17 assumed in the negotiations?

18 A. Yes. During the negotiations I chose a different name,
19 which was Mike, which is more international and the same in
20 all languages, and which is basically a role I played during
21 the coming months or during the months to come at that point
22 in time, you know, the role as a tough negotiator who doesn't
23 accept plays by the pirates.

24 Q. Why was the strategy changed? Why did you change
25 strategy to take a tougher stance?

—S. Nitsche - Direct—

1 A. Because we wanted to get the crew out as quick as
2 possible, and we figured that we would only achieve that when
3 we negotiate to the point that we can get them out.

4 Q. Who were the pirate negotiators that you dealt with?

5 A. The negotiators from the pirates were Ali Jama, the one,
6 and the second one was a guy called Leon.

7 Q. Leon?

8 A. Leon, yes.

9 Q. Did you ever meet Ali Jama or Leon in person?

10 A. No.

11 Q. You spoke with them over the telephone?

12 A. I spoke with both of them over the telephone during the
13 negotiations, yes.

14 Q. Now, in developing the strategy did you and the advisors
15 anticipate what types of tactics the pirates might use to
16 pressure you?

17 A. Yes. The advisors were quite curious in that, and we
18 were briefed that we will face a lot of different threats
19 like hostage killings, like people on board got sick and need
20 medical assistance immediately, selling the vessel or the
21 cargo or whatever to a terrorist organization, all kinds of
22 different threats.

23 Q. And what was your response supposed to be when you heard
24 these kinds of threats?

25 A. When -- my response needed to be still tough, because we

—S. Nitsche - Direct—

1 could not show to the pirates that any of these threats would
2 have an impact on us, because this might lead them to
3 actually do what they were threatening if they see that this
4 really has a result.

5 Q. Did you also expect from a strategy perspective that the
6 pirate negotiators might try to befriend you or ingratiate
7 themselves with you?

8 A. Yes, this is usually as well happening; that the
9 negotiators from their side try to present themselves as
10 working for government organizations only helping the crew
11 and that they're trying to make friends with the negotiator
12 on the other side and describe themselves as being almost a
13 hostage as well.

14 Q. Did you expect the negotiators to have the final say on
15 the ransom amounts?

16 A. No. I didn't expect them to have the final say, no.

17 Q. Who did you expect the pirate negotiators would say
18 regarding having authority on the final -- on the ransom
19 amount from their end?

20 A. Sorry, I didn't --

21 Q. Yeah, let me rephrase that.

22 Who did you anticipate that the pirate negotiator
23 would identify as having a final say in relation to the
24 ransom amounts?

25 A. Well, according to our knowledge, there are certain

—S. Nitsche - Direct—

1 finance guys behind their -- behind the scenes who are
2 actually making the decision on the final amounts.

3 Q. Okay. Now, when did you take over?

4 A. The negotiation I took over in the beginning of August --
5 or middle of August.

6 Q. And who had the ultimate authority to increase the
7 company's offer to meet the pirates' demand?

8 A. The ultimate authority was the management.

9 Q. Of the company?

10 A. The management of the company, yes.

11 Q. And how were the increases from the company's side -- how
12 were the increases in the ransom determined?

13 A. There was an underlying strategy developed at the
14 beginning of the case which will lead to a certain amount
15 that could be made available to pay, and the strategy was
16 reviewed after each and every phone call, each and every
17 offer, and adjusted when necessary in case we wouldn't come
18 anywhere.

19 Q. Who was the first pirate negotiator that you regularly
20 talked to on the telephone?

21 A. That was Ali Jama.

22 Q. How often would you try to speak to him?

23 A. We usually agreed on -- we tried to agree on times where
24 we would speak the next times again, so a regular basis,
25 which wasn't always kept from the pirates' side. Then we

—S. Nitsche - Direct—

1 would wait and call from our side to try to get ahold of the
2 negotiator.

3 Q. What do you mean there wasn't -- the time was not always
4 kept by the pirate negotiator?

5 A. That means he would agree on the next phone call in two
6 days at 2:00 local time Somalia, and you were waiting 2:00,
7 3:00, 4:00 and nothing is happening. You try to call
8 yourself, and nobody is picking up. And you're calling next
9 day and next day until you reach somebody or until the
10 pirates decide to call you again.

11 Q. Can you estimate for the jury how many times you would
12 call the pirate negotiator and not get an answer, not have
13 the phone picked up?

14 A. In total, for sure, more than 50 times where we just
15 dialed and nobody was picking up, at least.

16 Q. Now, how did you treat Ali Jama when you first talked to
17 him?

18 A. Well, I treated him according to the role I was going to
19 take, with a tough approach, telling him that we want to get
20 the vessel released and that we have to hurry up and come to
21 an amount that is achievable.

22 Q. Were you rude with Ali Jama over the telephone?

23 A. Yeah. Rude might describe it, yes. I wasn't
24 particularly nice, no.

25 Q. Was this a different approach than the first negotiator,

—S. Nitsche - Direct—

1 Mr. Rajesh Chava, had taken?

2 A. Yes, Mr. Rajesh Chava took a more friendly approach
3 during the first weeks indeed, yes.

4 Q. And what was one of the first tactics that Ali Jama and
5 the pirates tried to use in response to pressure you?

6 A. One of the first tactics was that we were informed that
7 the captain was killed and that the vessel was now without a
8 captain and -- yeah.

9 Q. Do you recall when this was, approximately?

10 A. That was in the end of August.

11 Q. How did you react to that?

12 A. Personally, of course, I was shocked, but I couldn't show
13 that on the phone, so what I did is I just pretended it
14 doesn't make a difference. I didn't react to it, basically,
15 in the phone call. I just went over to the next topic,
16 pretending that -- pretending, first of all, it doesn't
17 matter and hoping that it's not true.

18 Q. And did you later find out about the captain?

19 A. Yes, in one of the later calls we found out that it was
20 indeed one of the known pirate tactics and that the captain
21 was unharmed.

22 Q. The captain was alive?

23 A. Was alive, yes.

24 Q. Now, did the pirates change negotiators during the time
25 that you were the company's negotiator?

—S. Nitsche - Direct—

1 A. Yes, they changed a couple of times.

2 Q. How long did you deal with Ali Jama before the first
3 change?

4 A. For about a month.

5 Q. So --

6 A. So middle of August to middle of September.

7 Q. Okay. And tell us what happened in the middle of
8 September. Who took over for the pirates as the pirate
9 negotiator?

10 A. In the middle of September I received a phone call from
11 Ali Jama, who informed me that a new negotiator was appointed
12 with the name of Leon, and he would take over the negotiation
13 from that date.

14 Q. What happened after that?

15 A. After that we were negotiating for about a month with
16 Leon.

17 Q. And after about -- so that takes you from the middle of
18 September to approximately when?

19 A. The middle of October.

20 Q. And what happened in the middle of October?

21 A. In the middle of October Ali Jama took over the
22 negotiations again.

23 Q. And how long was Ali Jama the pirate negotiator during
24 this time period?

25 A. The second time it was only about ten days, in the

—S. Nitsche - Direct—

1 beginning of November.

2 Q. So that would take you from the middle of October to the
3 beginning of November?

4 A. Yes.

5 Q. What happened at that point?

6 A. At that point they switched again and Leon came back into
7 the picture.

8 Q. Okay. How long did Leon last as negotiator this time?

9 A. This time he lasted until around the beginning of
10 December, 7th or 8th of December.

11 Q. How did this flip-flopping of pirate negotiators affect
12 the negotiations?

13 A. It was for us quite tough, because we needed to ensure
14 that we knew at all times who has the negotiation rights for
15 the pirates. We needed to negotiate with the right party and
16 drop at the end of the time the money to the right party in
17 order to get the crew released. It took always a lot of time
18 and efforts to really determine who was in charge, so it
19 actually delayed our negotiations.

20 Q. What types of things would you do to confirm that
21 somebody -- either Leon or Ali Jama -- had the authority to
22 negotiate for the pirates?

23 A. We would seek confirmation from the crew on board when we
24 had them on the phone, and one of the key things is that the
25 satellite phone -- whoever was in possession or in control of

—S. Nitsche - Direct—

1 the satellite phone, we were assuming that this person would
2 have the negotiation rights for the pirates.

3 Q. And the satellite phone is the phone that was on the
4 Marida Marguerite?

5 A. Yes, the satellite phone is the phone that is on the
6 bridge on the Marida Marguerite.

7 Q. I'd like to direct your attention to approximately
8 December 8 of 2010. Was this about the time that Ali Jama
9 resumed control as the pirate negotiator?

10 A. Yes, around 8th of December Ali Jama appeared again and
11 took over the negotiations from Leon.

12 Q. Where were the negotiations at at this point in terms of
13 numbers?

14 A. We were with Leon at a point of roughly 5.5 million
15 demand, and when he appeared in the picture again he wasn't
16 aware of where the actual amount was and demanded another
17 6 million again. So it was, of course, delaying as well and
18 confusing the negotiation.

19 Q. Ultimately, who finished the negotiation on behalf of the
20 pirates?

21 A. Ali Jama did.

22 Q. And what was the final amount that was agreed to?

23 A. 5 million USD.

24 Q. Do you recall approximately when this amount was agreed
25 to?

—S. Nitsche - Direct—

1 A. It was in the -- in the middle of -- middle of December,
2 around the 22nd or something.

3 Q. Once the amount was agreed to and the preparations began
4 to finalize, did Ali Jama make any personal requests
5 regarding money?

6 A. Yes, he asked for a present of -- to himself as -- as a
7 payment for the services he rendered towards the crew during
8 the last months.

9 Q. How many times did he ask for a separate payment for
10 himself?

11 A. Oh, he asked a couple of times for it.

12 Q. Did you expect to get such a request from the pirate
13 negotiator?

14 A. Yes. It wasn't happening for the first time. It
15 happened in other cases we knew of as well that crew --
16 sorry -- that the negotiator would ask for something extra
17 for himself.

18 Q. And what was the reason Ali Jama gave as to why he
19 deserved a separate payment?

20 A. Well, what he said was he was very good to the crew, he
21 protected the crew, he helped the crew, he supported them
22 during the difficult times, and that's why he deserves extra
23 payment.

24 Q. Did you also receive phone calls from any crew members
25 advocating that Ali Jama should receive this separate

—S. Nitsche - Direct—

1 payment?

2 A. Yes. One time I remember the captain was put on the
3 phone, and he was asking as well for an extra payment for --
4 the captain -- because of Ali Jama's services that he gave to
5 the crew.

6 Q. And after that phone call a day later or so did you
7 receive another call from the captain?

8 A. Yes, I had a chance to speak to the captain where he was
9 able to speak freely. I asked him could he speak freely, and
10 he could, and he said that what he was saying a day earlier
11 about the present is not true and we shouldn't pay a
12 single -- or anything to Ali Jama because he didn't do
13 anything for the crew.

14 Q. Did he explain his circumstances? Did the captain
15 explain his circumstances, whether he was supervised or
16 unsupervised by --

17 A. Yeah, he was saying that he was told to -- or forced to
18 ask for something for Ali Jama during the last call -- during
19 the call before.

20 Q. Ultimately, did the company agree to give Ali Jama any
21 more money?

22 A. No.

23 Q. And, so, the final amount was how much?

24 A. The final amount we paid was 5 million USD.

25 MR. CASEY: Your Honor, if I could have just one

—S. Nitsche - Cross—

1 minute.

2 (There was a pause in the proceedings.)

3 MR. CASEY: Your Honor, pass the witness.

4 CROSS-EXAMINATION

5 BY MR. BROCCOLETTI:

6 Q. Sir, can you approximate for us the number of calls that
7 you had with Ali Jama?

8 A. Approximately? It would be just a guess. No.

9 Q. Can you approximate the number of calls you had with
10 Leon?

11 A. No, I couldn't.

12 Q. Would you agree there was a distinct difference, however,
13 in the content of the phone calls between Ali Jama and Leon?

14 A. A difference in content?

15 Q. Let me give you an example.

16 During the conversations you had with Ali Jama he
17 would talk about the crew, their safety, their well-being,
18 his situation, his plight. Do you recall those things?

19 A. He was telling this as well, yes.

20 Q. Right, I understand. You never had such conversations
21 with Leon. He did not discuss those issues with you, did he?

22 A. He discussed well-being as well, but -- yeah, no -- yeah.

23 Q. Would you characterize -- would you say that Leon's
24 conversations with you were much more businesslike, matter of
25 fact and to the point?

—S. Nitsche - Cross—

1 A. Leon appeared to have quite some experience in
2 negotiating vessels' cases, and he was negotiating a case
3 earlier as well.

4 Q. I'm sorry?

5 A. He earlier negotiated other cases as well as far as we
6 knew.

7 Q. Was his negotiations with you more efficient?

8 A. Was it more efficient? At the end of the day we got the
9 vessel out with Ali Jama, so -- efficient? I can't tell you
10 that.

11 Q. All right. Were his conversations with you shorter?

12 A. Yeah. They were shorter, yes.

13 Q. All right. Thank you very much.

14 THE COURT: Any other questions?

15 MR. CASEY: No, thank you, Your Honor.

16 THE COURT: You're instructed, sir, not to discuss
17 your testimony with anyone until this matter is complete, at
18 which time you're free to discuss it with anyone you like.

19 May he be excused?

20 MR. CASEY: Yes, Your Honor, we'd ask that he be
21 excused.

22 THE COURT: Do you need him any further,
23 Mr. Broccoletti?

24 MR. BROCCOLETTI: No, Your Honor.

25 THE COURT: You may be excused.

CERTIFICATION

I certify that the foregoing is a correct transcript
of an excerpt from the record of proceedings in the
above-entitled matter.

s/s

Heidi L. Jeffreys

July 26, 2012

Date

Heidi L. Jeffreys, Official Court Reporter